

STATE OF VERMONT

HUMAN SERVICES BOARD

In re)	Fair Hearing No. 18,971
)	
Appeal of)	
)	

INTRODUCTION

The petitioner appeals a decision by the Department of Prevention, Assistance, Transition, and Health Access (PATH) denying his application for Crisis Fuel Assistance. The issue is whether the Department abused its discretion in determining that the petitioner's needs and circumstances were beyond the reasonable limits to and intent of the program.

FINDINGS OF FACT

1. The petitioner lives in a house that he owns. The house is in general disrepair, and the petitioner is behind on his mortgage. Sometime before or shortly after the start of this heating season the chimney on his house collapsed, making his oil furnace inoperable. The cost of repairing the chimney is estimated at \$1,500.

2. Since the collapse of his chimney the petitioner has been heating his house with electric appliances. On December

29, 2003 he applied to the Department¹ for crisis fuel assistance. His electric bill at that time totaled over \$2,200 in past and current charges. The Department paid the charges for most current month of the bill, \$681, and the petitioner obtained another \$50 toward the bill from another charitable organization. Apparently, this was sufficient to forestall action by the electric company at that time to terminate the petitioner's electric service.

3. The petitioner made a similar application for crisis fuel in January 2004, presenting the Department with an even larger current and past due electric bill. The Department denied this application because there appeared to be no indication that payment of the current month's charges would make any difference in the electric company's decision to terminate the petitioner's service.

4. On the day of the hearing in this matter, April 13, 2004, the petitioner stated that his past due electric bill was over \$5,000. There appears to be no dispute that the petitioner's income and resources are woefully insufficient to pay that kind of arrearage. The petitioner has received a shut off notice from the electric company, but as of the date

¹ The Department contracts with the local office of Economic Opportunity to administer the Crisis Fuel Assistance program. See W.A.M. § 2950.

of the hearing the electric company had not taken action to terminate the petitioner's service.

5. The petitioner admits that his present housing situation is financially untenable. He concedes that given his foreseeable financial prospects he will likely have to attempt to sell his house and move to a more affordable residence. Given these circumstances, it cannot be concluded that the Department was unreasonable in concluding that even regular and continuous payments of the petitioner's electric bills will prevent or forestall the termination of the petitioner's electric service or, worse, prevent the loss of his current housing altogether.

ORDER

The Department's decision is affirmed.

REASONS

The discretionary nature of the Crisis Fuel Assistance program is clearly set forth in the following provisions of W.A.M. § 2951:

It is not the intent of these regulations to define a program of entitlement, i.e., a household whose income and resources are within the specified limits and who has a fuel need does not become entitled to a grant, and indeed may be denied. It is the intent of this regulation to provide a framework within which staff,

based on their judgment, may grant assistance to households who face a hearing crisis.

In making this judgment staff will consider the individual situation; income, resources, prior applications, and what led to the crisis. Staff shall determine eligibility for crisis assistance based on whether there is an extenuating or unpredictable circumstance. An extenuating or unpredictable circumstance is defined as: death in the family which results in additional expenses to the applicant household; illness of a family member which results in the household incurring additional expenses; an unanticipated work-related expense necessary to preserve employment; extraordinary housing expenses which are required to remove life-threatening hazards or to keep the home habitable; or other unanticipated circumstances or occurrences which could not have been foreseen or prevented by the applicant household.

To make such a determination the department will complete a careful assessment of past income; uses made of income and resources; relative necessity of such uses including consideration of age, health, and other factors having impact on necessity; and adequacy of planning (past and future) to avoid such emergency.

Among the purposes for which the department examines the circumstances that precipitated the fuel emergency and assesses how past income was used are to determine the likelihood that a similar fuel emergency will recur in the future and the degree to which the fuel emergency was preventable. It is to the benefit of both the applicant and the department to attempt to prevent the recurrence of fuel emergencies.

Staff will also consider what potential income and resources are available and the extent to which the household can commit all or a portion of such potential toward meeting or partially meeting their current heating crisis. This potential shall include all members of the household and not simply those bearing direct responsibility for the purchase of fuel.

. . .

Within this framework, staff will determine eligibility on the basis of conserving program funds and utilizing client resources to the maximum extent reasonably possible. Staff will make every effort to assist those who are denied eligibility to find alternative solutions to their problem.

In addition to the above provisions, the regulations limit payments to the minimum necessary "to avert shut off". W.A.M. § 2956. Moreover, the regulations limit crisis fuel payments for "metered services" to the "most recent monthly billing period" for such service. Id.

In this case, it must be concluded that the Department was within its discretion in determining that payment of the most recent month of the petitioner's electric bill would not avert or forestall the shutoff of the petitioner's electric service. Funding for the Crisis Fuel Assistance program is extremely limited. Clearly, it would be contrary to the stated purpose of "conserving program funds" to grant benefits to a single individual to prolong or maintain at any cost a housing situation that is so clearly financially untenable.

The petitioner's situation in this matter is, indeed, unfortunate.² However, inasmuch as it must be concluded that it was within the reasonable discretion of the Department under the above regulations to deny the petitioner payment of

his most recent electric bill, the Department's decision in this matter must be affirmed. 3 V.S.A. § 3091(d), Fair Hearing Rule No. 17.

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² The Department's General Assistance (GA) program exists to meet certain emergency needs of eligible individuals.